IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WP(C).No. 30328 of 2005(I)

OS.738/1988 of I ADDL.SUB COURT,TRIVANDRUM

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PETITIONER:

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1. SUBHASHINI, W/O.LATE BALAN,
   AGED 63 YEARS, RESIDING AT THAPASYA,
   P.T.P.NAGAR, ANCHAMADA VILLAGE,
   TRIVANDRUM TALUK.

2. ANITHA, D/O.LATE BALAN,
   AGED 40 YEARS, THAPASYA, P.T.P.NAGAR,
   ANCHAMADA VILLAGE, TRIVANDRUM TALUK,
   RESIDING AT POIKAYIL HOUSE, PATTOOR.P.O.,
   PADANILAM, ALAPPUZHA.

BY ADV. SRI.ARUN VALENCHERY
SRI.S.MAHESH KUMAR

RESPONDENTS:

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1. MR.APPAVU SUNDARAN, AGED 67,
   RESIDING AT APPAVU SADANAM, HIGH SCHOOL WARD,
   PUNALOOR MUNICIPALITY, PATHANAPURAM TALUK.

2. MRS.K.THANKA RETNA BAI,
   W/O.APPAVU SUNDARAN, AGED 55,
   RESIDING AT APPAVU SADANAM, HIGH SCHOOL WARD,
   PUNALOOR MUNICIPALITY, PATHANAPURAM TALUK.

BY ADV. SRI.S.V.BALAKRISHNA IYER
SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 30328/2005

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE ORDER DATED 13.10.2005 IN E.P. NO. 336/04 IN O.S. NO.738/88 IN THE FILE OF 1ST ADDITIONAL SUB COURT, TRIVANDRUM.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 30328 of 2005

Dated this the 5th day of June 2007

JUDGMENT

There is no representation for the petitioners when the case came up for hearing today. One of the grounds, which is seriously raised in this writ petition by the judgment debtors who are facing proceedings for execution of a decree for specific performance of a contract for sale, is that they did not receive any notice from the Execution Court as regards the settlement of the draft sale deed to be executed by the court in favour of the decree holders. The learned Sub Judge has forwarded a report dated 17.11.2005 to this court which shows that the petitioners/judgment debtors were duly served with notice and that the court has reason to execute the sale deed and ordered delivery only after the petitioners were so served.

2. Sri.P.B.Krishnan, the learned counsel for the decree

holders/respondents submits that there was no contest between the parties on the trial side and that the decree was confirmed by the appellate court also. Counsel further submits that the petitioners were served with notice in the very same address which they had shown in the Appeal Memorandum and which is also shown by them in the present writ petition. According to the learned counsel, the petitioners are not entitled to invoke the extraordinary jurisdiction of this court under Article 227 for setting aside order of the Execution Court.

I do find force in the submission of the learned counsel that there is no warrant for interfering with the supervisory jurisdiction under Article 227. I dismiss the writ petition. However, on considerations of indulgence, I permit the petitioners to file objections, if any, to the prayer for delivery within three weeks from today. If any such objections are received by the Execution Court within the time stipulated above, the Execution Court will hear the parties on those objections and pass fresh orders regarding delivery. Considering the above direction, the order of stay presently passed by this court will be

continued for another two months.

PIUS C. KURIAKOSE,
JUDGE.

dpk